

REMARKS

Reconsideration of the present application as amended is requested. In the first Office Action, Claims 1, 2, 8, 11 and 14 were rejected for alleged obviousness over U.S. Patent No. 5,288,022 of Sesser. The incorrect dependency of Claim 14 has been corrected by amendment. In rejecting Claims 1, 2, 8, 11 and 14 for alleged obviousness over '022 Sesser, the examiner states that "[a]lthough Sesser does not disclose the means for preventing over-spinning of the turbine when the pressurized fluid is air or a mixture of water and air, the device of Sesser is capable of carrying out this function." This obviousness by inherency rejection is improper. With respect to Claim 1, that claim calls for "means for preventing over-spinning of the turbine when the pressurized fluid is air or a mixture of water and air." Per 35 USC §112, paragraph 6, this element must be interpreted as the brakes of Figs. 1 and 2 that engage the turbine and prevent any rotation thereof, and the valves of Figs. 3 and 4 that selectively re-direct fluid around the turbine, and equivalents thereof. The sprinkler of '022 Sesser is a rotary stream type sprinkler that includes a viscous damper having a viscous brake chamber 120 that is filled with a viscous fluid in order to create shear forces to *slow* the rotation of inverted conical computer housing 114. Thus, '022 Sesser fails to disclose, let alone suggest, anything like Applicants' brakes of Figs. 1 and 2 and valves of Figs. 3 and 4. Accordingly, withdrawal of the obviousness rejection of Claim 1 over '022 Sesser, along with Claims 2 and 8 which depend therefrom, is requested.

Claim 11 calls for "a brake configured and mounted within the riser to selectively engage the turbine to prevent over-spinning of the turbine when the pressurized fluid is air or a mixture of water and air." Again, the sprinkler of '022 Sesser has nothing for *selectively* engaging the turbine to prevent over-spinning. The viscous fluid inside viscous brake chamber 120 of '022 Sesser is *always* in contact with the computer housing 114. Therefore, withdrawal of the obviousness rejection of Claim 11 over '022 Sesser is requested. Claim 14, as amended, now depends from Claim 11, and withdrawal of the obviousness rejection thereof over '022 Sesser is requested for the same reasons as with regard to Claim 11.

In the first Office Action, Claims 3, 5 and 9 have been rejected for obviousness over '022 Sesser in view of U.S. Patent No. 6,199,584 of Brown et al. The examiner contends that Sesser discloses Applicants' claimed invention except for the valve means. The examiner says it would have been obvious to one of ordinary skill in the art to modify the sprinkler of '022 Sesser to incorporate flow valve 28 of '584 Brown et al. in order to prevent over-spinning of the turbine. This is an improper obviousness rejection. '584 Brown et al. merely discloses a spherical float valve inside of a sprinkler riser so that when the riser breaks, an increased stream of water flow lifts the spherical ball valve against a valve seat to provide a seal, and thereby prevent flooding, while enabling water to continue flowing through the supply line to other sprinklers. See Fig. 10 and column 14, lines 42-62 of '584 Brown et al. The sprinklers disclosed in '584 Brown et al. are not rotor-type sprinklers that have turbines. Therefore, this reference does not disclose, or suggest, in any fashion, that the spherical float valve may be somehow used to prevent the over-spinning of a turbine in a rotor-type sprinkler. The rotary stream sprinkler of '022 Sesser is only concerned with slowing or dampening the rotational speed of its distributor housing 114 and is not even concerned with the over-spinning of the computer housing 114 when pressurized fluid flowing through the sprinkler is air or a mixture of water and air. Accordingly, neither '022 Sesser nor '584 Brown et al. recognize the problem addressed by Claim 3, let alone suggest a solution to the same. Furthermore, the float type ball valve 28 of '584 Brown et al. is completely incompatible with the design of the rotary stream sprinkler of '022 Sesser. One is left to speculate as to how to combine the same in a manner that would selectively re-direct the fluid around the distributor housing 114, as opposed to merely shutting off fluid flow to the same. Therefore, for the foregoing reasons, withdrawal of the obviousness rejection of Claim 3 over '022 Sesser in view of '584 Brown et al. is requested. Withdrawal of the rejection of Claim 9 for alleged obviousness over '022 Sesser in view of '584 Brown et al. is also requested for the same reasons, since Claim 9 specifies that "the over-spinning prevention means re-directs a mixture of water and air *around* the turbine." (emphasis added). Claim 5 depends from Claim 3 and accordingly, withdrawal of the obviousness rejection thereof over the combination of '022 Sesser in view of '584 Brown et al. is requested for the same reasons.

Claims 16, 17 and 19 have been rejected for alleged obviousness over '022 Sesser in view of '584 Brown et al. The examiner states that '022 Sesser lacks the valve means of Claim 16 and then alleges that it would have been obvious to one of ordinary skill in the art to incorporate the float valve of '584 Brown et al. This obviousness rejection is improper for the same reasons argued above with respect to Claim 3. Accordingly, withdrawal of the obviousness rejection of Claim 16 over the combination of '022 Sesser and '584 Brown et al. is requested. Claims 17 and 19 depend from Claim 16 and withdrawal of the obviousness rejection thereof over '022 Sesser in view of '584 Brown et al. is requested for the same reasons argued with respect to Claim 16.

Applicants note that the examiner has indicated that Claims 4, 6, 7, 10, 12, 13, 15, 18 and 20 would be allowable if re-written in independent form, including all the limitations of the base claim and any intervening claims. However, as explained above, the obviousness rejections of independent Claims 1, 11 and 16 are improper and should be withdrawn.

Applicants note that the subject application was filed with informal drawings in the form of blueprints with handwritten reference numerals applied to the same. It appears that these informal drawings are sufficient for examination purposes. Upon the indication of allowable subject matter, Applicants will file formal patent drawings to replace the informal patent drawings originally filed.

No additional fee is due at this time. Claims 1-20 are allowable and notification to this effect is solicited.

Respectfully submitted,

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ATTACHMENT

ANNOTATED CLAIM AMENDMENTS PER 37 CFR §1.121(c)(1)(ii)

14. (Once Amended) The sprinkler of Claim [1] 11 where in the brake locks the
2 turbine against rotation.